

Intimations.

EYE-SIGHT.

NOTICE

MR. N. LAZARUS, Oculist-Optician, of LONDON and CALCUTTA, may be consulted for SPECTACLES at the HONGKONG HOTEL (Room No. 139).

ONLY UNTIL SATURDAY.

Mr. LAZARUS supplies his SPECTACLES only after testing the sight.

ADVICE FREE.

HONGKONG HOTEL,
(Room No. 139).
Hongkong, 5th December, 1895. [1871]

To-day's
Advertisements.

ELITE SKATING RINK,
DUDELL STREET.

TO-NIGHT AND EVERY EVENING
BOXING NIGHT
GRAND MASQUERADE BALL,
DANCING AT 10 P.M.

Intending Competitors can give in their Names for the One Mile BICYCLE CONTEST.

Wait and Watch the date for the
LIGHT WEIGHT CHAMPIONSHIP
BOXING CONTEST
for a Handsome
SILVER CUP.

Admission on SATURDAY—\$1.00.

The BAND of the WEST YORKSHIRE
REGIMENT will be in attendance Nightly.
SAM MARKS,
Proprietor.

Hongkong, 24th December, 1895. [1901]

ZETLAND LODGE,
No. 55, E.C.

A REGULAR MEETING of the above
LODGE will be held in the FREEMASONS'
HALL, Zetland Street, THIS EVENING, the 26th
December, at 8.30 p.m. precisely. Visiting
Brethren are cordially invited to attend.
Hongkong, 26th December, 1895. [1957]

NEW YEAR HOLIDAY.

IN accordance with Ordinance No. 6 of
1875, the Undermentioned BANKS will be
CLOSED for the Transaction of Public Business
on FRIDAY, the 1st January, 1897.

For the CHARTERED BANK OF INDIA,
AUSTRALIA, AND CHINA,
T. H. WHITEHEAD,
Manager, Hongkong.

For the HONGKONG & SHANGHAI BANKING
CORPORATION,
T. JACKSON,
Chief Manager.

For the NATIONAL BANK OF CHINA,
LIMITED,
GEO. W. F. PLAYFAIR,
Chief Manager.

For the MERCANTILE BANK OF INDIA,
LIMITED,
J. W. R. TAYLOR,
Manager, Hongkong.

For the BANQUE DE L'INDO-CHINE,
Hongkong Agency,
M. LACAZE,
Acting Manager.

For the BANK OF CHINA & JAPAN, LIMITED,
HONGKONG,
CHANTREY INCHBALD,
Manager.

For the YOKOHAMA SPECIE BANK, LIMITED,
NAO NABEKURA,
Agent.

Hongkong, 26th December, 1895. [2001]

THE CHINA MUTUAL STEAM NAVI-
GATION COMPANY, LIMITED.

NOTICE TO CONSIGNEES.

FROM GLASGOW, LIVERPOOL AND
SINGAPORE.

THE Company's Steamship

"CHINGWO"

having arrived from the above Ports, Consignees
of Cargo are hereby informed that their Goods
are being landed at their risk into the Godowns
of the Hongkong and Kowloon Wharf and
Godown Company, Kowloon, whence delivery
may be obtained.

No Claims will be admitted after the Goods
have left the Godowns, and all Claims must be
sent in to the Office of the Underwriter before
Noon on the 31st instant, or they will not be
recognized.

All broken, chafed, and damaged Goods are
to be left in the Godowns where they were
examined on THURSDAY, the 31st instant,
at 3 P.M.

No Fire Insurance has been effected, and any
Goods remaining in the Godowns after the 31st
instant, will be subject to loss.

Bills of Lading will be countersigned by
HOLLIDAY, WISE & Co.,
Agents.

Hongkong, 26th December, 1895. [2002]

DOUGLAS STEAMSHIP COMPANY,
LIMITED.

FOR SWATOW, AMOY AND FOCHOW

THE Company's Steamship

"NAMOA"

Captain Hall, will be despatched for the above
Ports on TUESDAY, the 29th instant, at
Daylight.

For Freight or Passage, apply to
DOUGLAS LAZARUS & Co.,
General Managers.

Hongkong, 26th December, 1895. [2004]

CHINA NAVIGATION COMPANY,
LIMITED.

FOR SHANGHAI.

THE Company's Steamship

"WUHU"

Captain Benson, will be despatched as above
on TUESDAY, the 29th instant, at 2 P.M.

For Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents.

Hongkong, 26th December, 1895. [2005]

Intimations.

DAKIN, CRICKSHANK &
COMPANY, LIMITED,
VICTORIA DISPENSARY,
HONGKONG.

AERATED WATERS.

SIMPLE AERATED WATER.

SODA WATER.

GINGER ALE.
LIMONADE.
SARSAPARILLA.
RASPBERRY VADE, &c.

DAKIN, CRICKSHANK & Co.'s WATERS are
made under the constant supervision of a duly
qualified English Chemist and will bear com-
parison with the best English Manufactures.

Special terms to HOTELS, CLUBS, MEN'S and
other Large Consumers.

Any complaints should be addressed to the
Manager.

Hongkong, 2nd May, 1895. [427]

NOTICES TO CORRESPONDENTS.

It is requested that all communications relating to Subscriptions,
Advertisements, &c., be addressed to the "Manager, Hongkong
Telegraph" and not to the Editor.

Letters on Editorial matters to be sent to "The Editor" and
not to individual members of the staff.

Communications intended for publication must be accompanied
by the name and address of the writer, not necessarily for
publication, but as evidence of good faith.

While the columns of the Hongkong Telegraph will always
be open for the free discussion by correspondence of all questions
affecting public interests, it must be distinctly understood that
the Editor does not in any way hold himself responsible for
opinions thus expressed.

TO ADVERTISERS.

Advertisements are requested to forward all notices intended for
insertion in that day's issue not later than Three o'clock so as
not to retard the early publication of the paper.

Advertisements and Subscriptions which are not ordered for a
fixed period will be continued and continued.

The Hongkong Telegraph has the largest circulation of any
English newspaper published in the Far East, and is therefore the
best medium for Advertisers. Terms can be learnt on application.

The Hongkong Telegraph's number at the Telephone Central
Exchange is No. 1. Telegraphic address—"Telegraph,"
Hongkong.

A. S. WATSON & CO.,
LIMITED.

ESTABLISHED A.D. 1841.

WINE
AND
SPIRITS.

ALL these are selected by our London House,
bought direct at first hand, imported in wood
and bottled by ourselves, thus saving all inter-
mediate profits, and enabling us to supply the
best growths at MODERATE PRICES.

PRICE LISTS, with Full Details, to be had on
Application.

PORT after removal should be rested a month
before use. When required for drinking at
once it should be ordered to be decanted at
the DISPENSARY before being sent out.

SHERRY.—Excellent Dinner and After Dinner
Wines of very superior Vintages. All are
true Xeres Wines.

CLARET.—Our Claret, including the lowest
Priced, are guaranteed to be the genuine
product of the juice of the grape and are not
artificially made from raisins and currants,
as is generally the case with Cheap Wines.

BRANDY.—All our Brandy is guaranteed to be
pure COGNAC, the difference in price being
merely a question of age and vintage.

WHISKEY.—All our Whiskey is of excellent
quality and of greater age than most brands
in the market. The SCOTCH WHISKY
marked "E" is universally popular, and is
pronounced by the best local connoisseurs
to be superior to any other brand in the
Hongkong market.

We only guarantee our WINE and SPIRITS
to be genuine when bought direct from us in the
Colony or from our authorized Agents at the
Coast Ports.

A. S. WATSON & CO., LD.
THE HONGKONG DISPENSARY.
Hongkong, 15th September, 1895.

BIRTHS.
On the 24th instant (Christmas Eve), the wife
of WILLIAM FARMER, of a daughter.
On the 12th instant, at Bruce Hill, Bonaso
Wang, Singapore, the wife of W. B. HARRINGTON,
of a daughter.
On the 12th instant, at Lee, Kent, the wife of E. V.
Carey, Selangor, of a daughter.
At Yokohama, on the 21st instant, the wife of
Harry J. Sharp, of a daughter.
At Shanghai, on the 21st instant, at No. 14,
Minghong Road, the wife of F. A. M. D'Almeida,
of a son.

MARRIAGE.
On the 20th instant, at H.B.M.'s Consulate-
General, Shanghai, by Sir Nicholas J. Hansen,
Consul-General, and afterwards at the Holy
Trinity Cathedral, by the Rev. E. C. Bridges,
M.A., Philip Alexander Harrington, eldest son of
Alexander Chambers, of Leytonstone, Essex,
England, to Margaret Mary (Maggie), eldest
daughter of Edward Babbin, of Shanghai.

DEATHS.
At Shanghai, on the 20th instant, Alfred
Davis, a native of Oldham, England, late of
Kwo Cotton Mill, Shanghai; aged 30 years.
At Shanghai, on the 20th instant, P. M.
Peterson, late pilot at Ningpo; aged 56 years.

The Hongkong Telegraph

HONGKONG, SATURDAY, DECEMBER 10, 1895.

NOTES AND COMMENTS.

If the news published in our Extra
yesterday morning should turn out to be
true in substance and in fact, no more
acceptable Christmas message has ever
been presented to the community of
Hongkong than that contained in our slip.
The West River opened to trade after all
these years of inquiry, of petition, of re-
monstrance, would be, in itself, a great thing,
and would give no slight impetus to the
business of the coming year; but to have,
in addition, the collection of lekin and the
management of all the Customs stations and
barriers throughout Kwangtung and
Kwangsi transferred to the control of the
Imperial Maritime Customs is almost too
good to be believed, and yet it is so
reasonable and so natural, after the expe-
rience the Imperial Government has had
with the collection of the opium lekin, that
the only wonder is that the Taungli
Yamen has not overcome all local opposi-
tion and sanctioned it long ago. If Sir
CLAUDE MACDONALD has been the com-
pelling power in bringing the Chinese
Government to make this important con-
cession to foreign ideas and its own best
interests he has done enough already to
immortalise his name in the history of our
commercial relations with China. The
drawback to the promise that the West
River would sooner or later be opened in
its entire length to foreign trade has
been the fear that the local authorities
would, in practice, neutralize all the
advantages to be obtained from the
extended contact area by interposing
more barriers, more and heavier duties,
more and more useless regulations and
restrictions than before, and that the
opening of the river and of the districts
served by it to trade would be more
nominal than real. We congratulate the
Chamber of Commerce of Hongkong on
the final result of its labours, now
extending over a very long period, for the
opening of this important thoroughfare.
It must have been some time in the sixties
that MICHAEL MOSS explored the river under
the auspices of the Chamber.

We have no reason to doubt the
authenticity of the news we published yester-
day and reproduce in this issue. The
official intimation of the facts may be
delayed a little, but they are facts we feel
assured from the position and character
of our informant. We hope to be able
soon to announce that the cessation of a
portion of the opposite mainland to Hong-
kong, although much more difficult of
attainment, has become *un fait accompli*.
English influence will shortly dominate
throughout the southern provinces of
China, and the threatened French invasion
from the south will come to nothing. With
the West River open to trade throughout
its length, and Customs work in honest and
intelligent hands, the trade through Tonkin
and the Red River valley will become
wholly worthless. It has only attained its
present position—no great thing after all—
because of the wrongheadedness of the
Imperial and local authorities in throwing
every obstacle in the way of free inter-
course from the sea, when they ought to
have opened all their barriers to welcome it.
English influence will permeate South
China for China's good. French influence,
French effort would be solely for French
interests and to the exclusive profit of
Frenchmen. We do not say that our
traders will not make handsome profits
for themselves. They will; but in so doing
they will at the same time strengthen and
benefit China, not injure and weaken her
as her more southern neighbour would
certainly do.

Mr. E. JEROME DYER addressed the
Royal Colonial Institute on the 17th ultimo
on the subject of the colony of Victoria
and its industries. He describes it as the
"Farm Garden of Australia," the product
of the commingling of the warm air and
waters of the Tropics with the more
invigorating but colder winds from the
frigid south, where stock need no shelter
in the winter and winter clothing may be
worn in the summer. He treats of its
mineral wealth as accidental and tempo-
rary. He questions its ability at any time
to cut a figure as a manufacturing centre.
He thinks that none of the Australian
colonies will ever equal England or Ger-
many in the products of the loom or of the
steam hammer, and least of all Victoria.
It is essentially a pastoral land—the home
of viticulture, horticulture, and dairying.
It has done great things in this direction
already, and yet only the fringe of its
territory has been exploited and there is
only a handful of inhabitants compared

with the immense masses it can well sup-
port. If it has endeavoured to push on a
little too fast and exceeded the limits of
moderation, it has been punished by the
crash of 1893 and by the harsh criticism
it has been exposed to on all sides.
Individual interests suffered, but the crisis
has only been productive of incalculable
good to the country as a whole. We
publish portions of Mr. DYER's lecture in
another part of this issue.

TELEGRAMS.

(Special to Hongkong Telegraph.)

OPENING OF THE WEST
RIVER.AGREEMENT SIGNED IN PEKING,
LEKIN STATIONS ABOLISHED.

PEKING, December 24th.

An Agreement between the Chinese
Government and the Western Powers
having for its object the opening of
Wuchowfu (Samsui district) and Hokow
on the West River (Sikang), to foreign
commerce has been signed by the Taungli
Yamen and duly endorsed with the seal of
the Privy Council.

It is provided in the Agreement that the
collection of all Lekin charges shall be
transferred from the local authorities
throughout the two Kwang provinces to the
Imperial Maritime Customs, and will be
henceforth reckoned as part and parcel
of the duties payable to the Customs under
the treaties.

REUTER'S MESSAGES.

SPAIN AND THE UNITED STATES.

LONDON, December 23rd.

The Spanish Cabinet has decided not to reply
to President Cleveland's message through
diplomatic channels.

TURKEY AND THE POWERS.

The Powers, including Russia, have agreed in
principle to co-ordinate measures in the event of the
Sultan refusing to yield to their demands.

THE GERMAN COMMERCIAL MISSION.

The *Times* correspondent at Berlin states
that the German commercial mission to China
and Japan has been forbidden to arrange per-
sonal business relations with native firms.

(Special to the *Asiatic*.)

RESULT OF THE MANCHESTER
HANDICAP.

THE MANCHESTER NOVEMBER HANDICAP of
1,500 sovs.; winner (selling races excepted)
after the weights are declared 5 lbs., twice or
once of 500 sovs. 10 lbs. extra; the second to
receive 100 sovs. out of the plate; 5 sovs. extra
5 sovs., the only liability if declared, 10 sovs. in
addition, if not then struck out, or 25 sovs. for
starters. Cup Course, one mile and six
furlongs.

LONDON, November 28th.

Mr. W. M. G. Singer's ch. c. TELESCOPE, by
Tyrant—Antelope, 4 yrs., Cannon 1

Mr. J. C. Sullivan's ch. c. WINKFIELD PRIDE,
"Winkfield"—Almoncy, 3 yrs., Cannon 2

Mr. J. de Cockburn's ch. c. SWEET ANTE PADE,
"Citation"—St. Louis, 3 yrs., Cannon 3

Mr. A. F. Bisset's br. c. DINA FORGET, by
Loved One—Barometer, 4 yrs., Cannon 4

Mr. J. Wallace's br. c. SPOOK, by Oberon—Lady
Lothian, 3 yrs., Cannon 5

Mr. A. Z. Calvert's ch. c. CHIT CHAT, by May
Boy—Small Talk, 3 yrs., Cannon 6

Mr. C. J. Blake's ch. c. BOWLING, by Torpedo
—Kline, 3 yrs., Cannon 7

Mr. T. E. Brown's ch. c. SWAZIE, by
Estrella—Popple, 3 yrs., Cannon 8

Mr. J. de Cockburn's br. f. EMERALD, by
King—St. Louis, 3 yrs., Cannon 9

Mr. Theobald's br. c. PEGASUS APOLLO, by St.
Simon—Polyasia, 3 yrs., Cannon 10

Mr. C. Hibbert's br. c. SWEET ANTE PADE, by
Citation—Lady Anne, 4 yrs., Cannon 11

Mr. H. T. Barclay's br. c. DUMBO, by Hamp-
ton—Helen Agnes, 3 yrs., Cannon 12

Mr. A. Bailey's br. c. DUMBO, by Barcelona—
Time Bell, 3 yrs., Cannon 13

BETTING: Seven *Telegraph*, 5 to 4 against
Winkfield's Pride, 25 to 1 *Small Talk*, 3 to 1 *Chit
Chat*.

Won by three lengths; three-quarters of a
length between second and third.

The second in this race (*Winkfield's Pride*)
won the Cambridgehire in a canter.

(From *Japanese Papers*.)

THE PLAGUE IN FORMOSA.

SUMOMOSSI, December 10th.

It is reported here that the black plague has
been totally exterminated in Formosa.

(From *Bangkok Observer*.)

GREAT BRITAIN AND THE TRANSVAAL.

LONDON, December 12th.

President Kruger, in closing the Volksraad,
stated that the Transvaal Government desired
only to act on the defensive, and never aggres-
sively, so as to preserve friendly relations with
Great Britain in love and peace.

VENEZUELA.

Strong popular opposition is shown in Vene-
zuela to the agreement with Great Britain, but
the President and the Government approve of it.

(From *Rangoon Times*.)

THE FLAQUE IN INDIA.

CALCUTTA, December 8th.

The plague report from Bombay for the last
forty-eight hours gives seventy-one fresh cases
and fifty-six deaths.

LOCAL AND GENERAL.

SMOKING Concert at the Theatre Royal at 9 P.M.

The Mexican cruiser *Zaragoza* left here to-day
for Singapore.

HARVESTING'S Circus is now in Calcutta doing a
roaring business.

The permanent-way of the Trans-Siberian Rail-
way has now been laid over 2,500 miles.

A CASE of cholera was reported from a house on
the Kailang Road, Singapore, on the 15th
instant.

By the steamer *Albatross* (11th December) 100
and 120 lavalles from the squadron ten to-day for
England.

The next meeting of the Legislative Council has
been further postponed till 3 p.m. on Monday,
the 4th prox.

MISSRS. Pollock, Scott, Grice, and Hallen of
the Customs Service are transferred from Tien-
tsin to South China.

ASMOKEVO concert will be held on board H.M.S.
Immortalite this evening. Last night some
nice carol singing was heard on board the *Victor*.
Emmanuel.

In Russian official circles it is believed that
unbroken railway communication will exist
between St. Petersburg and Vladivostok by the
first day of the 20th century.

At Delaware, the capital of the State of that
name, the other day, a body of militia burned the
Spanish flag. Violent speeches were also
made by prominent civilians.

SAYS the *Asien*, as the race for the Viceroy's
Cup.—We hear that a new jockey is coming out
from home for *Paitale*, who is expected down
a Calcutta by the 7th instant.

WE publish *in extenso* in a supplement to
this issue the judgment delivered by His Lord-
ship the Chief Justice in the Supreme Court on the
21st instant in the great Bank case.

The Mission steam-launch *Day Spring* will
call alongside any vessel holding the answering
pennant, between 9 and 10.30 a.m. on Sunday,
to convey men ashore to the 11 o'clock service,
returning about 12.30 p.m.

We read in *Indian Engineering* that Sir
Alexander Mackenzie has pronounced the ap-
proaching famine as likely to be the severest of
the century, and we are afraid, says the *Hindu
Patriot*, he cannot be far wrong.

The Banque de l'Indo-Chine has decided, at the
request of the Government, to open a branch at
Bangkok, where French interests in the banking
world, it is pointed out, have not hitherto been
represented. The new branch will commence
business on the 1st proximo.

The Band of the West York Regiment will play
the following programme at the Officers' Mess
to-morrow, commencing at 12.30 p.m. —

1. Overture, "The Rose Tree" — Mandelstam.
2. Schumann's "The Rose Tree" — Schumann.
3. Canique de Noel — Adams.
4. Selection, "La Rose de Saba" — Goussard.

It is rumoured that Captain Leithbridge will
shortly return to England, having been recalled,
and that as soon as he leaves Mr. F. H. May,
the Chief of Police, will be called upon to per-
form double duty, continuing the control of the
Police and acting Superintendent of the Gaol,
viz. Captain Leithbridge.

SAYS the *North China Daily News* of 21st
inst.—It should be explained that though the
crew of the Chinese steamer *Ningchow*, at Hong-
kong, have been paid off by the Imperial Mari-
time Customs, the vessel is still in the hands of
Messrs. Bannett & Co., and is in charge of a
captain appointed by them.

A CROWDED public meeting was held on
November 30th at Bombay under the auspices of
the Indian Anti-Vivisection Society. Dr. Bha-
chandra, who presided, declared in an elaborate
speech that a Pastur Institute was not required
in India. A resolution was passed strongly pro-
testing against the establishment of such an in-
stitute, and requesting the Government to aban-
don the idea.

THE *Saturday Review* notes with great
pleasure that Lord Dufferin agrees with Lord
Salisbury, and Sir Charles Dilke with both of
them, that our proper policy is a good under-
standing with Russia. Lord Salisbury's words
at the Lord Mayor's banquet were that "it is a
superstition of an antiquated diplomacy that
there is any necessary antagonism between
Russia and Great Britain."

A *Times* correspondent says:—Mr. Wilkinson
from Canton replaces Mr. Sandis, transferred
to Hankow, as our Vice-Consul. We are to
have a third man here, and extra assistance in
the native staff, unmistakable signs of the
general prosperity of the port. Mr. Erlow
retires in March or April, and speculation is of
course rife on the interesting subject of his
successor. The names of Messrs. Warren and
Scott are most freely mentioned.

ONE suicide and one attempted suicide in

Intimations.

CHOICE SELECTION OF SWEETS.

"Reviving Sweets repair the Mind's Decay."—Pope.

CADBURY'S CHOCOLATE CREAMS.

A Large Variety in FANCY BOXES, at Popular Prices.

PASCAL'S GOLDEN MALTEX.
CHOCOLATE PISTACHE. MARRONS GLACES.
AMANDES GRILLEES. NOUGAT AUX FRUITS. XTALIZED STRAWBERRIES.
JORDAN ALMONDS. BON-BONS FINS.
&c. &c. &c.

ATKINSON'S PERFUMES,
Various Odours.

WATKINS & CO.,
APOTHECARIES' HALL, 65, Queen's Road, Central.

J. J. CARNAUD, 3, rue d'Argout, PARIS

TIN BOXES
STAMPED ARTICLES
FOR

MILITARY
EQUIPMENT

Apply to Messrs DODWELL CARLILL & Co., Agents for M. OPPENHEIMER & Co, Paris

Hotels.

THOMAS'S GRILL ROOM.

THIS Establishment has always enjoyed a high class reputation for Liberty in Menu, Quality of Food and Perfection of Cuisine. THIS REPUTATION WILL BE MAINTAINED.

Fresh Dairy Produce, FRUIT and other supplies are regularly imported from the United States, Canada and Australia. BEEF from Kobe and TURKISH from the Straits. The WINES, SPIRITS and MALT LIQUORS, comprising all brands in general demand, are the best adapted to the Far East. In addition to the BAR, GRILL and DINING ROOMS, the upper floors are arranged so as to provide PRIVATE ROOMS suitable for DINNERS or SUPPERS, &c. PICNIC and BATHING PARTIES supplied with light refreshments at a moment's notice. ICE CREAM from 2 P.M. to 11 P.M. COLD MEAT SUPPERS from 9 to 11.30 P.M.

THOMAS'S GRILL ROOM.

FREDERICK BISHOP,
Manager.

NEW VICTORIA HOTEL.

ROTISSERIE.

MEALS A LA CARTE.

CHOPS, STEAKS, &c., &c., at any time between 7.30 A.M. and 11.30 P.M.

MONTHLY BOARDERS at Moderate Rates.

MADAR & FARMER,
Proprietors.

Hongkong, 3rd September, 1896. [1884]

WINDSOR HOTEL,

HONGKONG.

THIS ESTABLISHMENT, situated in the elegant building known as "CONNAUGHT HOUSE," offers First-class Accommodation to Residents and Travellers. Passenger Elevator, from Entrance Hall to each Floor, in charge of experienced Attendant. Favourable Arrangements made for Families and for Monthly or Extended Periods.

P. BOHM,
Proprietor & Manager.

Hongkong, 3rd April, 1895. [185]

PEAK HOTEL.

OPEN ALL THE YEAR ROUND.

THIS commodious and well appointed HOTEL, situated at a height of 1,250 feet above sea-level, has just been thoroughly re-decorated, renovated and re-furnished, and a NEW WING has been built, which commands magnificent Views of the Harbour and mainland of China.

For further particulars, apply to

THE MANAGER,
New Victoria Hotel.

Hongkong, 24th November, 1896. [197]

To be Let.

TO LET.

NOS. 2 & 3, STEWART TERRACE—
(THE PARK).

Apply to J. W. NOBLE.

Hongkong, 21st August, 1896. [1977]

TO LET.

FIVE-ROOMED BUNGALOW "RHEDA,"
BONHAM ROAD.

Apply to CHINA MERCHANTS' S. N. CO.,
No. 22, PRINCE STREET.

Hongkong, 8th June, 1895. [1914]

TO LET.

HOUSE No. 7, DES VŒUX VILLAS,
containing SIX BEDROOMS and SIX BATHROOMS.

GODOWN in DUNDRELL STREET.

Apply to BELLIOS & Co.

Hongkong, 22nd December, 1896. [1989]

TO LET.

DWELLING HOUSES—
Nos. 2 & 4, RIFON TERRACE.

"HARFORD" at MAGADINE GAP.

"THE KENNELS," in MAGADINE GAP.

"RAVENSHILL" East and West.

ERANIE'S BUNGALOW, at KOWLOON.

GODOWNS in BLUE BUILDINGS.

Apply to THE HONGKONG LAND INVESTMENT
& AGENCY CO., LTD.,
HONGKONG, 23rd December, 1896. [19]

TO LET.

NO. 18, HOLLYWOOD ROAD.

Apply to DAVID SASSOON, SONS & CO.

Hongkong, 15th December, 1896. [1960]

Shipping.

STEAMERS.

DOUGLAS STEAMSHIP COMPANY,
LIMITED.

FOR SWATOW, AMOY AND TAMSUI.
THE Company's Steamship

"HAILONG."
Captain Davis, will be despatched for the above Ports TO-MORROW, the 27th instant, at Daylight.

For Freight or Passage, apply to
DOUGLAS LAIRRAK & Co.,
General Managers.
Hongkong, 26th December, 1896. [1997]

FOR NEW YORK, VIA SUEZ CANAL.
To follow the S.S. *Arcton* and *Claverhill*.

THE Steamship

"RADLEY."
Captain Tallack, will be despatched for the above Port on or about the 27th instant, at Daylight.

To be followed by the
S.S. "MORVEN"
on or about the 15th January, 1897.

For Freight or Passage, apply to
SHEWAN, TOMES & Co.,
Agents.
Hongkong, 26th December, 1896. [1913]

THE CHINA AND MANILA STEAMSHIP
COMPANY, LIMITED.

FOR MANILA (DIRECT).

THE Company's Steamship

"ZAFIRO."
Captain Cobban, will be despatched for the above Port on MONDAY, the 28th instant, at 4 P.M.

This Steamer has Superior Accommodation for Passengers.

For Freight or Passage, apply to
SHEWAN, TOMES & Co.,
General Managers.
Hongkong, 22nd December, 1896. [1990]

OCEAN STEAMSHIP COMPANY.

FOR LONDON, VIA SUEZ CANAL.

THE Company's Steamship

"ACHILLES."
Captain Harvey, will be despatched as above on MONDAY, the 28th instant.

For Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents.
Hongkong, 23rd December, 1896. [1992]

OCEAN STEAMSHIP COMPANY.

FOR SANDAKAN AND KUDAT.

THE Company's Steamship

"DEUCALION."
Captain B. Branch, will be despatched as above on TUESDAY, the 29th instant, at 3 P.M.

For Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents.
Hongkong, 19th December, 1896. [1976]

INDO-CHINA STEAM NAVIGATION
COMPANY, LIMITED.

FOR SINGAPORE, PENANG AND
CALCUTTA.

THE Company's Steamship

"CHELYDRA."
Captain R. Carr, will be despatched as above on TUESDAY, the 29th instant, at 3 P.M.

For Freight or Passage, apply to
JARDINE, MATHESON & Co.,
General Managers.
Hongkong, 24th December, 1896. [1996]

CHINA NAVIGATION COMPANY,
LIMITED.

FOR PORT DARWIN, QUEENSLAND
PORTS, SYDNEY AND MELBOURNE.

THE Company's Steamship

"TSINAN."
Captain Ramsay, will be despatched on MONDAY, the 4th January, at 4 P.M.

The attention of Passengers is directed to the Superior Accommodation offered by this Steamer. The First-class Saloon is situated forward of the Engine. A Refrigerating Chamber ensures the Supply of Fresh Provisions during the entire voyage.

A duly qualified Surgeon is carried and the Vessel is fitted throughout with Electric Light.

For Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents.
Hongkong, 26th December, 1896. [1994]

"GLEN" LINE OF STEAM PACKETS.

FOR LONDON, VIA SUEZ CANAL.

THE Steamship

"GLENHARRY."
Captain Ferguson, will be despatched as above on or about MONDAY, the 4th January, 1897.

For Freight or Passage, apply to
JARDINE, MATHESON & Co.,
Agents.
Hongkong, 19th December, 1896. [1971]

OCEAN STEAMSHIP COMPANY.

FOR NEW YORK, VIA SUEZ CANAL.

THE Company's Steamship

"POLYPHEMUS."
Captain Goodwin, will be despatched as above on FRIDAY, the 18th January, 1897.

For Freight or Passage, apply to
BUTTERFIELD & SWIRE,
Agents.
Hongkong, 19th December, 1896. [1977]

SAILING VESSELS.

FOR SAN FRANCISCO.

THE British Barque

"SUMBABA."
Rahberg, Master, will load here for the above Port, and will have quick despatch.

For Freight, apply to
SHEWAN, TOMES & Co.,
Agents.
Hongkong, 7th December, 1896. [189]

NOTICE TO SHIPPERS.

FOR SAN FRANCISCO.

THE 100 A. J. Iron 4-mast British Barque

"MATTERHORN."
Captain J. Williams, will load here for the above Port, and will have quick despatch.

For Freight, apply to
MELCHERS & Co.,
Agents.
Hongkong, 28th November, 1896. [1840]

FOR NEW YORK.

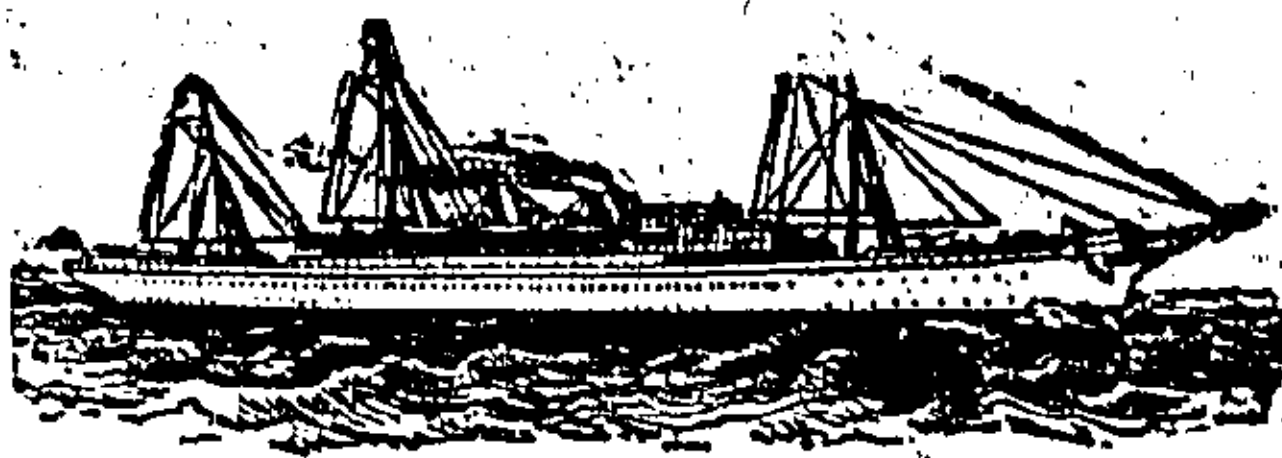
THE 3 1/2 L. I. American Barque

"PENOBSCOT."
Captain Macdonald, will load here for the above Port, and will have quick despatch.

For Freight, apply to
ARMSTRONG, KERR & Co.,
Agents.
Hongkong, 24th November, 1896. [1848]

CANADIAN PACIFIC
ROYAL MAIL S

1897.



1897.

SAFETY. SPEED. PUNCTUALITY.

THE FAST ROUTE BETWEEN CHINA, JAPAN AND EUROPE, VIA CANADA
AND THE UNITED STATES.

(CALLING AT SHANGHAI, NAGASAKI, KOBE, YOKOHAMA AND VICTORIA, B.C.)
Twin Screw Steamships—6,000 Tons—10,000 Horse Power—Speed 19 knots.

PROPOSED SAILINGS FROM HONGKONG.

EMPRESS OF CHINA...Comdr. R. Archibald, R.N.R...WEDNESDAY, 20th January, 1897.
EMPRESS OF INDIA...Comdr. O. P. Marshall, R.N.R...WEDNESDAY, 17th February, '97.
EMPRESS OF JAPAN...Comdr. Geo. A. Lee, R.N.R...WEDNESDAY, 17th March.

THE magnificent Steamships of this Line pass through the famous INLAND SEA OF JAPAN, and usually make the voyage from VANCOUVER (B.C.) in 12 DAYS, making close connection at Vancouver with the PALATIAL TRANS-CONTINENTAL TRAINS of the CANADIAN PACIFIC RAILWAY which leave daily, and cross the Continent FROM THE PACIFIC TO THE ATLANTIC WITHOUT CHANGE. Close connection is made at Montreal, Quebec, Halifax, New York and Boston with all Trans-Atlantic Lines, which passengers to Great Britain and the Continent are given choice of.

Passengers Booked through to all principal points and AROUND THE WORLD. Return tickets to various points at reduced rates. Good for 4, 6, 9 and 12 months.

SPECIAL RATES (First-class only) granted to Missionaries, Members of the Naval, Military, Diplomatic and Civil Services, and to European Officials in the Service of China and Japan Governments.

CIRCULAR PACIFIC TOUR TICKETS Hongkong to Vancouver, Vancouver to Sydney, Australia, via Honolulu, and Sydney to Hongkong via Brisbane and Torres Straits. Good for 9 months, \$100.

The attractive features of this Company's route, embrace its PALATIAL STEAMSHIPS, (second to none in the World), the LUXURIANCE OF ITS TRANS-CONTINENTAL TRAINS (the Company having received the highest award for same at recent Chicago World's Exhibition) and the diversity of MAGNIFICENT MOUNTAIN AND LAKE SCENERY through which the Railway passes.

THE DINING CARS and MOUNTAIN HOTELS of this route are owned and operated by the Company, and their appointments and Cuisine are unequalled.

For further information, Maps, Guide Books, Rates of Passage, &c., apply to

D. E. BROWN, General Agent,
Piddar's Street.

Hongkong, 23rd December, 1896.

OCCIDENTAL & ORIENTAL
TAL STEAMSHIP
COMPANY.

TAKING CARGO AND PASSENGERS TO
JAPAN, THE UNITED STATES,
MEXICO,
CENTRAL AND SOUTH AMERICA, AND
EUROPE.

VIA
THE OVERLAND RAILWAYS,
AND
ATLANTIC AND OTHER CONNECTING
STEAMERS.

VIA INLAND SEA OF JAPAN AND
HONOLULU.

PROPOSED SAILINGS FROM HONGKONG.

Gafole (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama & Honolulu) ... Tuesday, 29th Dec., at Noon.

Doric (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama & Honolulu) ... Saturday, 16th Jan., at Noon, 1897.

Bulger (via Shanghai, Nagasaki, Kobe, Inland Sea, Yokohama & Honolulu) ... Thursday, 4th Feb., at Noon.

THE Company's Steamship

"GAELIC"
will be despatched for SAN FRANCISCO, via SHANGHAI, NAGASAKI, KOBE, INLAND SEA AND YOKOHAMA, on TUESDAY, the 29th December, 1896, at Noon.

Steamers of this line pass through the INLAND SEA OF JAPAN, and call at Honolulu and passengers are allowed to break their journey at any point en route.

Through Passage Tickets granted to England, France and Germany by all trans-Atlantic lines of Steamers, and to the principal cities of the United States or Canada. Rates may be obtained on application.

Passengers holding through ORDERS TO EUROPE have the choice of Overland Rail Routes from San Francisco, including the SOUTHERN PACIFIC, CENTRAL PACIFIC, UNION PACIFIC, DENVER and RIO GRANDE, and other direct connecting Railways, and from Chicago to destination the choice of direct lines.

Particulars of the various routes can be had on application.

Special rates (first class only) are granted to Missionaries, members of the Naval, Military, Diplomatic and Civil Services, to European Officials in service of China and Japan, and to Government officials and their families.

Passengers who have paid full fare, re-embarking at San Francisco for China or Japan (or vice versa) within one year, will be allowed a discount of 10 per cent. This allowance does not apply to through fares for China and Japan to Europe.

All PARCEL PACKAGES should be marked to address in full, and same will be received at the Company's Office until five P.M. the day previous to sailing.

Consular invoices to accompany Cargo destined to Points beyond San Francisco, in the United States, should be sent to the Company's Office, addressed to the Collector of Customs, San Francisco.

For further information as to Freight or Passage, apply to the Agency of the Company, No. 7, PRINCE CENTRAL.

J. S. VAN BUREN, Agent

Hongkong, 20th December, 1896. [18]

F. BLACKHEAD & CO.,
SHIP-CHANDLERS, SAILMAKERS,
COAL AND PROVISION MERCHANTS,
AND GENERAL COMMISSION
AGENTS.

PRINCE CENTRAL, HONGKONG.
SOAP MANUFACTURERS.

SOLE AGENTS FOR
HARTMANN'S RAUPT'S GENUINE
COMPOSITION RED HANDBRAND.
HARTMANN'S GREY PAINT.
DAIMLER'S PATENT MOTOR LAUNCHES
&c. &c.

Sole Agents for
FERGUSON'S SPECIAL CREAM
and
F. & O. SPECIAL LIQUOR SCOTCH
WHISKY, &c.

EVERY KIND OF
SHIPS' STORES AND REQUISITES
ALWAYS IN STOCK
AT
REASONABLE PRICES.

Hongkong, 14th May, 1896. [14]

HONGKONG, PACIFIC
STEAMSHIP AND RAILWAY
COMPANIES.

THE attention of passengers is directed to the very cheap rates offered by this Line to the PACIFIC COAST and the INTERIOR and EASTERN CITIES of the UNITED STATES and CANADA and to EUROPE.

HONGKONG TO LONDON \$400.

Excellent accommodation. First-class Table, DOCTOR and STEWARDESSE carried.

HONGKONG TO NEW YORK \$150.

The Railroad travelling is second to none on the American Continent. Magnificent Scenery of the ROCKY and CASCADE MOUNTAINS. The YELLOWSTONE NATIONAL PARK ROUTE. Passengers to EUROPE may proceed by one of the first class ATLANTIC MAIL LINES.

HONGKONG TO TACOMA \$225.

Rates of Passage to other Points on application.

Special rates allowed to members of Government Services.

PROPOSED SAILINGS FROM
HONGKONG.

(SUBJECT TO ALTERATION.)

Victoria ... 3.07 | Tuesday ... Dec. 29.

Olympia ... 2.08 | Tuesday ... Jan. 19.

Bremer ... 3.01 | Tuesday ... Feb. 9.

Tacoma ... 2.50 | Tuesday ... Mar. 2.

THE Steamship

"VICTORIA."
Capt. Alex. Gove, sailing at Noon, on TUESDAY, the 29th December, will proceed to VICTORIA, (B.C.) and TACOMA, (Wash.), via SHANGHAI, KOBE and YOKOHAMA.

Through Bills of Lading issued to Japan, Pacific Coast Ports, and to Canada and United States Ports.

Consular Invoices of Goods for United States Ports should be in quadruplicate, and one copy must be sent forward by the steamer to the care of the Freight Agent, Northern Pacific Railroad, Tacoma, Wash.

Parcels must be sent to our Office (with address marked in full) by 5 P.M., on the day previous to sailing.

For further information as to Passage or Freight, apply to

DODWELL, CARLILL & Co.,
General Agents.
Hongkong, 8th December, 1896.

THE PENINSULAR AND ORIENTAL
STEAM NAVIGATION COMPANY.

STEAM FOR
STRAITS, CEYLON, AUSTRALIA, INDIA,
ADEN, EGYPT, MEDITERRANEAN
PORTS, PLYMOUTH AND LONDON.

(Through Bills of Lading issued for BATAVIA, PERMAN GULF, CONTINENTAL and AMERICAN PORTS.)

THE Steamship

"KAISAR-I-HIND."
Capt. C. L. Dainton, carrying Her Majesty's Mails, will be despatched from this for BOMBAY, &c., on THURSDAY, the 31st December, at Noon, taking Passengers and Cargo for the above Ports.

Silk and Valuables, all Cargo for France, and Tea for London (under arrangement) will be transhipped at Colombo into a steamer proceeding direct to Marseilles and London; other Cargo for London, &c., will be conveyed via Bombay.

Parcels will be received at this Office until 4 P.M. the day before sailing. The Contents and Value of all Packages are required.

Shippers are particularly requested to note the terms and conditions of the Company's Bills of Lading.

For further Particulars, apply to

H. A. RITCHIE,
Superintendent.
Hongkong, 17th December, 1896. [431]

NORDDEUTSCHER LLOYD.

NOTICE.

STEAM FOR
SINGAPORE, COLOMBO, ADEN, SUEZ,
PORT SAID, NAPLES, GENOA,
ANTWERP, BREMEN AND HAMBURG.
PORTS IN THE LEVANT,
BLACK SEA AND BALTIC PORTS:

LONDON, NEW YORK, BOSTON,
BALTIMORE, NEW ORLEANS,
GALVESTON, AND SOUTH AMERICAN
PORTS.

THE COMPANY'S STEAMERS WILL CALL AT
SOUTHAMPTON
TO LAND PASSENGERS AND LUGGAGE.

N.B.—CARGO CAN BE TAKEN ON THROUGH
BILLS OF LADING

conduct of the parties, while the evidence of Cheong Koon Sing on the same points cannot be reconciled with such conduct.

Before I proceed to consider that conduct it may be well to mention two or three facts in the case.

Both Mr. Darby and Cheong Koon Sing say that they saw Cheong Kai on the 27th March, 1892, but Mr. Darby does not speak of any conversation taking place with him. At the interview of the 27th March and on the following day Cheong Koon Sing delivered to Mr. Darby Chinese promissory notes and other securities which he had obtained from the Tsau Shing, Kwan Yu, and Kung Tai Banks and which amounted in value to about \$100,000. These documents were merely kept by the Bank for safe custody and were not taken from time to time by Cheong Koon Sing and the proceeds paid by him to the Bank in discharge of his liability on the bills and notes. The whole amount was got in with the exception of some few thousand dollars—Mr. Darby says "inside of \$5,000."

The ten bills were all dishonoured in consequence of the failure of the drawers at Shanghai. The banks in Hongkong by which they were drawn also suspended payment from time to time, the latest about two months after the 27th March, 1892. The promissory notes of the Kwan Yu Bank were not paid. Kan Sing Toi absconded from the colony one or two months after the same date.

I come now to the consideration of the conduct of the Bank and of Cheong Koon Sing as throwing light upon the proceedings at the interview of the 27th March.

On the 30th March, 1892, the Bank opened an account in their books called the "Comptroller's Liability Account." In this account they debited Cheong Koon Sing with the amount of all the dishonoured bills, including those of the Kwong Fuk and Wing Tung Yan Banks, and the unpaid note, and with interest and other charges in respect of them, and credited him with the amount of the proceeds of his liability. Mr. Darby says that Cheong Koon Sing was not furnished with a copy of the account, but that he knew of the existence of the account and could have seen it at any time or obtained a copy of it. This statement is both reasonable in itself and consistent with what I take to be the characters of the man concerned. It must be remembered that Mr. Darby speaks of Cheong Koon Sing as a capable and efficient servant of the Bank, while Cheong Koon Sing on his side speaks of his always finding Mr. Darby straightforward in his dealings with him. It must also be remembered that he was at the Bank every day engaged in the performance of his duties, and no doubt in constant intercourse with Mr. Darby. In those circumstances it was only natural that Cheong Koon Sing should be made acquainted with the particulars relating to such an important transaction, in regard to which he and the Bank were co-operating towards the reduction of his large liability to them. In the plaintiffs' petition it was alleged that detailed accounts of the transactions and of the payments due by Cheong Koon Sing were furnished to Cheong Kai during his lifetime, but at the hearing it was admitted on the part of the plaintiffs that this allegation could not be sustained, and that the accounts were only furnished to his executors, the defendants. This, no doubt, was an omission to do something which it would have been better for the Bank to do; but it may be pointed out that the bond of Cheong Koon Sing and Cheong Kai contained an express stipulation that it should not be necessary for the Bank to notify any such entries to Cheong Kai or to inform any of his lessors sustained by the Bank through Cheong Koon Sing. Further, Mr. Darby says that Cheong Kai knew of the existence of this account; that he often came to the Bank in connexion with this business; that he frequently had conversations with him on the subject; and that he was kept acquainted with the state of affairs from time to time. The charging of Cheong Koon Sing in the account with the losses on the Kwong Fuk and Wing Tung Yan bills at so early a date after the 27th March is in the absence of fraud on the part of the Bank—which is not alleged by the defendants—consistent with Mr. Darby's version of the events of that day, but is inconsistent with Cheong Koon Sing's rendering of them.

The next event of importance took place on the same day as the opening of the liability account, namely, on the 30th March, 1892. On that day the following letter in the handwriting of Mr. Darby and signed by Mr. Ingham was addressed to and signed by Cheong Koon Sing:

The Bank of China, Japan, and the Straits, Ltd.
Hongkong 30th March, 1892.
Dear Sir, I have the regret of confirming to you my verbal statement of the 27th inst. that the drawers of our Chinese remittances on Shanghai would not meet their acceptances if the drawers of the bills called under the present of the "run" which was taking place on the four Chinese banks—

Wing Tung Yan Kung Tai
Kwan Yu Kwong Fook
I have been since informed by wire that the Yuen Loong Hong has been closed and that the Shui Tai Hong has failed.

In other words, I have to look to you for payment to us at once of the following drafts purchased direct from you: [Here follow particulars of the bills, not including those of the Tsau Shing Bank which have already been given in this judgment. The Tsau Shing Bank was apparently not included because it was thought that, as Lo Hok Pang, was not connected with that Bank, it would not close its doors.]

You have recourse against Yek Mow for Ts. 20,000 and this security seems to be good.

The last bill for Ts. 20,000 on Shui Tai has not been accepted.

I shall be glad of an answer as soon as possible, so that I may take the necessary steps to secure the Bank's interest—I am, dear Sir, yours faithfully,
CHAMBERS LUCHMANN,
Manager.

I would also remind you that you have not yet credited the cash with the Bank's local advance of \$10,000 to Kwan Yu guaranteed by Lo Hok Pang, on demand, which I instructed you to cash on 27th inst.

This letter of course made it perfectly clear that the Bank held Cheong Koon Sing liable for the losses occasioned to the Bank by the dishonouring of the Kwong Fuk and Wing Tung Yan bills, and if the idea of fraud is excluded, it is entirely inconsistent with the fact of the Bank having in any way released him from that liability. It was written by Mr. Darby, who is alleged to have given that release. In cross-examination Cheong Koon Sing was asked whether he had made any representation to Mr. Darby as to his duplicity in acting in this way and he admitted that he had not. Then he was asked why he had not done so, but he could make no answer to the purpose. He says that when he received the letter he got a Portuguese clerk of the Bank to explain it to him, and he was troubled in his mind when he found that the question of the Kwong Fuk and Wing Tung Yan bills, which had been settled between Mr. Darby, Kan Sing Toi, and himself on the 27th March, 1892, was raised again. He accordingly took Kan Sing Toi to see Mr. Ingham, and he related a short conversation which took place between them. Without going into details, it is sufficient to say that this conversation throws no light whatever on the question in controversy in this part of the case.

namely, whether the arrangement for charging Kan Sing Toi's account with the losses on the Kwong Fuk and Wing Tung Yan bills was or was not accompanied with a release of Cheong Koon Sing from liability in respect of those bills. In other words, the conversation is consistent with either contention. I cannot help thinking it strange that Cheong Koon Sing did not take Kan Sing Toi to see Mr. Darby, who had made the alleged agreement, and seek an explanation from him.

In answer to this letter Mr. Darby wrote and Cheong Koon Sing signed the following letter:

Hongkong, 1st April, 1892.
The Manager, the Bank of China, Japan, and the Straits, Ltd. Present.
Dear Sir, In reply to your letter of 30th March stating that you hold me responsible for Ts. 100,000, being amount of drafts on insolvent firms in Shanghai, I now beg to hand you promissory notes to the value of \$71,800 made out in your favour by responsible Chinese firms. Please return me later on dishonoured acceptances for a like amount—Yours faithfully,

CHEONG KOON SING.
I shall shortly hand you further cover, i.e., as soon as possible, but I hope the Bank will not press me too much.

C. K. S.
There is no evidence on the point, but it seems to me probable that the postscript of this letter was added at the instance of Cheong Koon Sing.

Subsequently, Mr. Darby—at the request, as he says, of Cheong Koon Sing—wrote and Cheong Koon Sing signed the following letter:

The Bank of China, Japan, and the Straits, Ltd.,
Hongkong, 31st May, 1892.
The Manager, the Bank of China, Japan, and the Straits, Ltd. Present.

Dear Sir, With reference to the Chinese bills purchased by you from me, drawn by the Wing Tung Yan and Kwong Fook banks on Shanghai, amounting to Ts. 70,000 and for which Kan Sing Toi is liable either as drawer or guarantor, I shall be much obliged if you will debit Kan Sing Toi's account in your books with the amount now standing at my debit in respect of these bills, and such entry will not in any way release me from my responsibility as your comptroller in the matter—I am, dear Sir, yours faithfully,

CHEONG KOON SING.
Next Mr. Darby wrote and Cheong Koon Sing signed the following letter. Mr. Darby states that Cheong Koon Sing got this letter written because he was afraid that the letter of the 31st May, 1892, might let him in for liability on any deficiency that might arise on Kan Sing Toi's account.

Hongkong, 3rd June, 1892.
The Manager, the Bank of China, Japan, and the Straits, Ltd. Present.

Dear Sir, Referring to your having debited Kan Sing Toi's account with the following entries—
Ts. 77,777.78 equivalent at 72 of Ts. 20,000
27,777.78 " " " 10,000
13,888.89 " " " 5,000
27,777.78 " " " 20,000

\$97,222.22 equivalent at 72 of Ts. 70,000 being unpaid bills drawn by the Wing Tung Yan bank and the Kwong Fook bank, for which Kan Sing Toi is liable, I enclose herewith a statement and payment of which was guaranteed by me, I state that my position towards the Bank remains the same as if no such debit entry had been made on your books, and I also agree—

(1)—To make good any deficiency—up to but not exceeding the above mentioned sum of \$97,222.22—which there may be in the account, such payment to be made by the securities held by you, which securities you may dispose of whenever you please, without reference in any way to me.

(2)—To make good to the Bank should they call upon me to do so, the deficiency shown by the Bank's books in respect to the aforesaid unpaid bills on the date on which such call is made, such payment to be made by the securities of Kan Sing Toi's account as given in para. 1—I am, dear Sir, yours faithfully,

CHEONG KOON SING, Comptroller.

I will presently consider what is the effect of these four letters. But it is necessary in the first instance to determine whether any effect at all should be allowed to the three of them which are written by Mr. Darby and signed by Cheong Koon Sing. Mr. Darby says that he fully explained these letters to Cheong Koon Sing, but he went over the first of them line by line with him. With regard to this letter Cheong Koon Sing at first said, in reply to Mr. Drummond, that Mr. Darby "explained the contents of the letter to him in pidgin English; he told him something about Ts. 70,000." At this point Mr. Francis interposed with an objection, that the defendants not having pleaded any defence of fraud or misrepresentation, the contents of the letter to him in pidgin English he told him something about Ts. 70,000. At this point Mr. Francis interposed with an objection, that the defendants not having pleaded any defence of fraud or misrepresentation, the contents of the letter to him in pidgin English he told him something about Ts. 70,000.

With regard to the second of the three letters, he says that "it was not explained to him that he was asking the Bank to debit Kan Sing Toi's account with Ts. 70,000, and that if he had known that all this was in the letter, he would not have put his signature to it." With regard to the third of the three letters, he says Mr. Darby said a few words, but in substance he asserts that it was not explained to him. With respect to each of the three letters he makes the statement that he thought it was "of no importance, so he signed it."

Now, as Mr. Francis argued, there is no allegation of fraud or misrepresentation made against the plaintiffs in the pleadings, and in the evidence of Cheong Koon Sing any express charge of bad faith or misrepresentation made against Mr. Darby. But certainly these assertions of his go very near such a charge. For the reasons, however, which I have already given with respect to the relative credibility of these two witnesses, I accept the statement of Mr. Darby that he explained the letters to Cheong Koon Sing. Further, I am of opinion that Cheong Koon Sing is to be allowed to be considered as a man of business, and in the letters he merely gives effect to the arrangement which Mr. Darby says was made between the three parties concerned on the 27th March, 1892. On the other hand it may be asked, is it fair or reasonable of Cheong Koon Sing to desire or endeavour to disclaim an admitted liability in respect of the bills of the two banks in question because the Bank, in his aid and for his advantage, was making an effort to get that liability discharged with the money of Kan Sing Toi? It is nothing unfair or unreasonable, according to Mr. Darby, beyond the usual discretion given by Kan Sing Toi, because the Bank was charging on his account the Wing Tung Yan as well as the Kwong Fuk bills. At the same time I cannot help thinking that it would have been more prudent for the Bank to have allowed as directed Cheong Koon Sing to have the letters written by some person not in their employment.

These four letters, then, are consistent with and support the contention of the plaintiffs as to what took place at the interview of the 27th March, 1892; they are inconsistent with and tend to rebut the contention of the defendants with respect to the same matter.

In accordance with the request made in Cheong Koon Sing's letter of the 31st May, 1892, the Bank on that date debited the account of Kan Sing Toi with the sum of \$97,222.22, being the amount in local currency of Ts. 70,000, the face value of the bills drawn by the two Banks with which he was connected. The Bank was empowered to make this charge by the terms of a general letter of hypothecation given to it by Kan Sing Toi on the 25th August, 1891. It is material to observe that the entry was not accompanied by any corresponding entry in the Comptroller's Liability Account, reducing pro tanto the amount of his liability, as it would have been if the Bank had intended to relieve him from liability in respect of the bills in question. Interest on the amount was charged in the Comptroller's Liability Account and not—except in an isolated instance—in Kan Sing Toi's account.

Mr. Darby says that Cheong Kai "on more than one occasion asked the Bank not to press him for an immediate settlement, in the hope that there might be some margin on Kan Sing Toi's securities." There was never any such margin, and the liability of Cheong Koon Sing was never in any way reduced by the arrangement for debiting Kan Sing Toi's account. On the 30th June, 1894, the entry was, apparently in accordance with instructions received from the head office in London, written off.

During the years 1892-94 payments of large sums of money were made by Cheong Koon Sing to the Bank in liquidation of his liability, and there were also various transactions between the parties, especially in regard to a property in Saigon, of which Cheong Koon Sing had obtained an assignment from the Kwan Yu and Kung Tai Banks. It does not appear to be necessary for me to refer to these matters in detail.

Cheong Kai died in the month of January, 1894, and probate of his will was granted to the defendants. Not long afterwards they gave notice in writing to the Bank to determine the bond. The notice expired on the 22nd September, 1894, and the Bank furnished the defendants with an account, made up as on that date, showing the particulars of their claim against the estate of Cheong Kai. The writ was issued some days before the expiration of the notice, but it was agreed between the parties at the hearing that the account should be treated as if it had been made up on the date of the issue of the writ.

Cheong Koon Sing remained in the employment of the Bank as their comptroller until the liquidation of the old Bank on the 23rd September, 1894, according to Mr. Darby, and until the 4th October, 1893, according to himself. He admitted that he had not during that time taxed Mr. Darby with bad faith in departing from the agreement of the 27th March, 1892, although he must have known by October, 1894, what the claim of the plaintiffs and the defence of the defendants were respectively.

These are the facts of the case as I find them. It remains to consider what are the rights and obligations in point of law of the parties as growing out of these facts. It was well said by Mr. Drummond in the course of his address that "the law formed a very small part of the case, and that the main difficulty was in deciding as to the effect of the evidence." The position of the parties in the suit may be briefly stated as follows.

The defendants do not deny the execution by their comptroller of the bond of surety, nor do they dispute that the losses on the dishonoured bills and notes come within the scope of the bond and that they are therefore in the first instance liable to the Bank for those losses, but by their conduct, first, that the Bank has, by its conduct in the matter, discharged them in construction of law from that liability, and secondly, that, if they are not so discharged, on the true state of the accounts between them, Cheong Koon Sing is not indebted to the Bank but the Bank is indebted to him, and therefore they in turn are not indebted to the Bank.

The first of these defences was formulated by Mr. Drummond in the following terms:—"That the effect of the arrangement made between the creditor (the Bank), the debtor (Cheong Koon Sing), and Kan Sing Toi was to discharge the surety, Cheong Kai, first, by depriving him of a remedy to which he was entitled, or, in other words, by making a material alteration in the debtor's position without the assent of the surety and without any reservation of the rights of the creditor against him secondly, by giving time to the debtor; and thirdly, (a) by discharging the debtor and (b) by taking substituted security.

With regard to the point as to depriving the surety of a remedy to which he was entitled, it was said, in further explanation, that before the agreement the debtor could have sued Kan Sing Toi, but that the effect of the agreement was to preclude him from doing that afterwards.

Let us take these points in their order. In the Colony Law of Guarantees, section 6, 351, under the heading of "conduct of the creditor which discharges the surety," there occurs the following passage:—"First, any material variation of the terms of the contract between the creditor and the principal debtor will always discharge the surety; and, secondly, a variation of those terms which is not material will also discharge the surety if it clearly appears that he became surety on the faith of the original contract, or if he has made those terms part of the contract, and if any notice was given to the surety of the terms of the contract between the creditor and the principal debtor, and after such notice he executed the guarantee, he is held to have become surety on the faith of the original agreement." In the present case the surety had express notice of the terms of the contract made between the creditor and the principal debtor, as set out both in the letter of agreement and in the bond, and, therefore, if the contract was varied, whether material or not, of the terms of the contract, the surety falls within the rule thus laid down and the surety is discharged. But the question is, was there any such variation made by the creditor? What were the terms of the contract on this point? They were that Cheong Koon Sing was "to be responsible for and pay on the days when the same should fall due all Chinese bank notes, bills, etc., which might be received or purchased by him or his employers for the Bank." Putting out of view for the moment the question of the release of the principal debtor, which falls under another head of the defence, as stated above, it may be asked what variation of the contract was effected by the arrangement made at the interview of the 27th March, 1892? According to his own showing, Cheong Koon Sing was not a party to the arrangement. It was made entirely by Mr. Darby and Kan Sing Toi. And as to its effect being to deprive Cheong Koon Sing of a remedy to which he was entitled against Kan Sing Toi, I can find no real ground for this contention. If even the Bank was precluded by the arrangement from suing Kan Sing Toi until his shares had been realised, Cheong Koon Sing was no party to and was not bound by that arrangement. There was nothing to prevent him from suing Kan Sing Toi forthwith, and it would have

been no defence for the latter to say that the Bank had made an arrangement with him by which his liability was to be met in another way. Even if the case were otherwise on this point, it may be observed that the contract of guarantee contains no stipulation that the Bank is not to interfere with the remedies over of Cheong Koon Sing against the drawers of Chinese bills making default, although of course it would be inequitable for it to so interfere and it might render itself liable to Cheong Koon Sing by so doing. This view of the matter is not, in my opinion, affected by the letter of Cheong Koon Sing of the 31st May, 1892. It is true that in that letter he asks the Bank to charge the account of Kan Sing Toi, but there was nothing in that to supersede any legal rights that he might have against Kan Sing Toi, the latter having been no party to the arrangement suggested in that letter. I do not think, therefore, that the first ground of defence can be supported.

Then, to take the second ground, was the effect of the arrangement such as to discharge the surety by giving time to the principal debtor? The rule of law as to the discharge of the surety by the giving of time by the creditor to the principal debtor is old and well settled. It is thus stated in the work to which I have already referred, at p. 388:—"If the creditor, without the consent of the surety, enter into a binding agreement with the principal debtor to give him further time for payment of the debt, the surety will be discharged. This is the case, even though no injury could accrue to the surety, for he himself is the fit judge of what is or is not for his own benefit. It is not, however, every agreement or promise made by the creditor which will have the effect of discharging the surety. In the first place, an agreement by the creditor to give time to the principal debtor will not discharge the surety, and never did so either at law or in equity, unless it be a binding character and unless made on valuable consideration. Such an agreement may be either in express words or implied from the conduct of the parties."

In the case now before the Court there was not, according to the evidence of either Mr. Darby or Cheong Koon Sing, any express promise or understanding made or given at the interview of the 27th March, 1892, to give time to Cheong Koon Sing. The case is not so clear as to an implied agreement. Taking Mr. Darby's evidence, I think it could reasonably be inferred from what was said and done at the interview, that any margin that might exist on Kan Sing Toi's account was to be applicable in payment of the bills of the Kwong Fuk Bank; that the shares held by the Bank on that account would have to be realised in order to find out whether any such margin was available; and that pending such realization, Cheong Koon Sing was not to be called upon to make good the amount of those bills, or, in other words, was to have time given to him for that purpose. If we rely on Cheong Koon Sing's evidence, this inference is still more clear. But assuming that time was given, the question arises whether the implied agreement by which it was given was of a binding character and made on a valuable consideration? I am unable to think that it had any such binding effect. As Mr. Francis argued, there was nothing in the arrangement to prevent the Bank from repudiating it the next day and enforcing its remedies against all the parties to the bills. I can discover no trace of any consideration moving from Cheong Koon Sing to the Bank to induce it to make the arrangement. It was a case of his taking something from the Bank, by way of relief of his own position, and giving it nothing in return. For even if Cheong Koon Sing's statements are accepted, that if the arrangement had not been made, he would have taken possession of and realised the promissory notes which Kan Sing Toi had about him, I do not see that his forbearing to do this constitutes a valuable consideration on his part for giving him time. There is no pretence that this forbearance was to Mr. Darby's request, and further, there is nothing to show that Cheong Koon Sing had any claim to the delivery to him of the promissory notes or that Kan Sing Toi would have delivered them to him if he had so demanded them.

But besides the arrangement made on the 27th March, 1892, it is necessary to consider the effect of Cheong Koon Sing's letter of the 1st April, 1892, and the 3rd June, 1892. There was no answer sent by the Bank to either of these letters, but, having regard to the fact that they were written by Mr. Darby, I think it must be taken that they were made in the knowledge of the Bank. In the postscript to the first of these letters Cheong Koon Sing says "he will shortly hand the manager further cover, but he hopes the Bank will not press him too much." But, taking it that the Bank acceded to this request, it appears to amount, not to a binding agreement to give him time, but to no more than a promise to refrain from unduly pressing him, and it is clear law that mere passive inactivity, or omission to press the debtor, as distinguished from an agreement giving time, will not discharge the surety. See Colyer on Guarantees, p. 372. Or, as Lord Halsbury said in the Oriental Financial Corporation v. Overend, Gurney & Co., L.R. 7 Ch. 160, "It is not simply neglecting to sue the principal which would have any effect upon the surety, but there must be a positive agreement with the principal that the creditor will postpone the suing of him to a subsequent period." The letter of the 3rd June, 1892, while it embodies an agreement by Cheong Koon Sing that his liability in respect of the Kwong Fuk and the Wing Tung Yan bills was not to be affected by the making of the debit entry with regard to them in Kan Sing Toi's account, amounts on its two subsidiary agreements to make good deficiencies on the account in respect of the bills. I think the express reservation made in this letter of the Bank's rights against Cheong Koon Sing must have its due operation, and prevent the letter and its implied acceptance by the Bank from having the effect of granting time to the debtor so as to discharge the surety.

The next contention on the part of the defendants is that the Bank discharged the surety by discharging the principal debtor. This contention is founded upon the statement of Cheong Koon Sing as to what was said by Mr. Darby at the conclusion of the interview of the 27th March, 1892. Even if this evidence is accepted to its full extent, it may be doubted whether Mr. Darby's assurance to Cheong Koon Sing that his liability in respect of the bills of the Kwong Fuk and the Wing Tung Yan bills was not to be affected by the making of the debit entry with regard to them in Kan Sing Toi's account, amounts to a release of him from liability for the bills of the two banks in question. But it is unnecessary to determine this point because I have already intimated an opinion that I am not prepared to accept Cheong Koon Sing's evidence in this matter.

The last ground of defence put forward is that the Bank discharged the surety by taking substituted security. By this I understand the defendants to contend that the Bank agreed with Cheong Koon Sing to take substituted security for the making good of the losses occasioned to them by the purchases of the Kwong Fuk and the Wing Tung Yan bills, their world, have recourse to such margin as might remain on Kan Sing Toi's advance account after realization of the shares, and other securities deposited with the Bank as cover for the advance, or, in other words, that a new liability was substituted for the original

liability. The question to be determined is, whether the Bank, in agreeing to debit Kan Sing Toi's account with the amount of the bills to which I am now referring, intended to take a further security in lieu of the original security, that is to say, the liability of Cheong Koon Sing for the bills, or whether they merely intended to take a security additional to that liability. It is evident that this is in the main a question of fact, and it will be gathered from what I have already said that there was no intention on the part of the Bank to release the liability of Cheong Koon Sing and to accept a further or additional security in lieu of it. I think that what the Bank really did was to agree to have recourse to any margin available on Kan Sing Toi's account as an additional security to the claim which they already had against Cheong Koon Sing, and that such recourse was not by way of substitution for that claim. And it is clear that the taking of security which is merely additional to, and not in lieu of, that originally taken from the debtor will not discharge the surety. It was said by North, J., in Clarke v. Brierley, 4 C.D. 437, "It has never been held that the mere acceptance of additional security, unaccompanied by a contract to give further time, would produce the result of releasing the surety." And in the case of Rouse v. The Bradford Banking Company, Limited, 70 D.L.J. N.S. 430, Lindley, L.J., made the following remarks:—"The question whether a creditor of two or more persons has released one of them and converted the others into his sole debtors by what is called novation is a question of intention, and an intention to look to them for payment, especially when requested to do so by their co-debtor, is quite consistent with an intention to look to them as a mere matter of convenience without releasing him. To succeed on this ground, what the plaintiff [the surety in that case] has to show is conduct inconsistent with a continuance of his liability, some which conduct an agreement to release him may be inferred."

It follows from these observations on the law of the case that, in my opinion, the defence has failed and the plaintiffs are therefore entitled to judgment. The question then is for what amount that judgment is to be entered. The plaintiffs contend that they are entitled to have judgment for \$100,000, being the full amount secured to them by the bond, while the defendants on their side submit that, if the accounts are carefully examined, it will be found that the plaintiffs are indebted to Cheong Koon Sing and not Cheong Koon Sing to them. Then there have been dealings between the Bank and Cheong Koon Sing subsequent to the 22nd September, 1894, especially with respect to the Saigon property, and it was admitted by Mr. Francis that there should be a reference for adjustment of the accounts between the parties subsequent to that date. But the accounts are somewhat complicated, and I think it will be more convenient that the matter should be referred to the Registrar in order that he may examine them and certify the amount for which judgment is to be entered and execution issued. But, in order to save time, it is desirable that I should express, for the guidance of the Registrar, my opinion upon various items of claim which are in controversy between the parties and also upon some other points.

To take the disputed items in order, I understood at the hearing that the plaintiffs abandoned any claim to compound interest. Then, as regards simple interest, it was held by the Court of Exchequer in Ackermann v. Broussard, 16 M. & W. 99, that "a party who guarantees the payment of a bill is liable for all that the principal would be liable for," including the payment of interest on the bill, if overdue. I think, therefore, that Cheong Koon Sing, and consequently the defendants, are liable for the payment of interest on the bills as from the date of their maturity. This question of interest is regulated by sec 57 of the Bills of Exchange Ordinance, 1885. It appears from this enactment that the plaintiffs are not entitled to claim, as they do both interest and exchange, and they must elect on which of these claims they will proceed before the Registrar. It will be seen also from the terms of the enactment that the expenses of noting and protesting are in the same position on this point as the interest.

It was contended by the defendants that the plaintiffs had accepted the Saigon property, a promissory note for Ts. 10,000, and certain shares as equivalent to cash, and that Cheong Koon Sing's indebtedness was thereby extinguished. I think, however, that they did not accept it in this contention, and that the plaintiffs should only be debited, in respect of these items, with the amounts which they have realised or, with reasonable diligence, ought to have realised. Any securities not yet realised the plaintiffs must either surrender to Cheong Koon Sing, or as he may appoint, or take over absolutely at a valuation to be made by the Registrar.

All reasonable costs and expenses incurred by the plaintiffs in realizing or endeavouring to realise, or in keeping alive, securities delivered to them by Cheong Koon Sing are to be allowed. The accounts are to be taken as on the 22nd September, 1894. All entries relating to the subject-matter of the suit made prior to that date in the plaintiffs' books, in the ordinary course of business, are to be deemed binding on the defendants, subject to exception on the ground of fraud or evident mistake. Judgments to be entered for the amount of the bills due to them on the basis of this finding, the total amount is not to exceed \$100,000. Interest at the rate of eight per cent. per annum is to be payable on the principal sum adjudged from the date of the commencement of the suit to the date of judgment.

The taking of the accounts will extend to the dealings of the parties subsequent to the 22nd September, 1894. If this account results in a reduction of the amount for which judgment is enforced, interest will, of course, be issued for a lesser sum, accordingly.

If any difficulty arises in settling the accounts, either party is to be at liberty to apply in Chambers for directions.

Reference was not made at the hearing to that portion of the prayer of the plaintiffs' petition which asks for an order for the sale of the premises mortgaged by Cheong Kai to the Bank and the application of the proceeds in payment of the judgment, and as I feel some difficulty on one or two points connected with the making of such an order, I will reserve liberty to the plaintiffs to move the Court for such an order if they desire to do so.

The plaintiffs will have their costs of suit, including the costs of and incidental to the application made by the defendants for the issue of a commission. This order is, of course, without prejudice to the order made by the Court with reference to the costs of the former trial.

Throughout this judgment I have used the terms "the Bank" and "the plaintiffs" in reference to the original plaintiff bank, but it is to be understood that the judgment and execution enure for the benefit of the Bank of China and Japan, Limited, who are now the real plaintiffs in the case.

Printed and Published by CHAMBERS LUCHMANN, at the "LAT PAU" Press, Singapore.

SUPPLEMENT
TO THE
"HONGKONG TELEGRAPH"
OF THE 16TH DECEMBER, 1894.

SUPREME COURT.

21st December.

IN ORIGINAL JURISDICTION.

BEFORE HIS HONOUR MR. CARRINGTON
(CHIEF JUSTICE).

THE BANK OF CHINA, JAPAN, AND THE
STRAITS LIMITED, v. CHEONG KUN SING, TAI,
CHONG YAU KUNG, AND LAM SHI.

The plaintiffs sought to recover \$100,000, a
debt due on a bond.

Mr. J. J. Francis, Q.C., and Mr. E. E.
Pollock (instructed by Messrs. Johnson, Stokes,
and Master) appeared for the plaintiffs, and
Mr. W. V. Drummond, Mr. E. Robinson, and
the Hon. Ho Kai (instructed by Mr. Denry) appeared
for the defendants.

The hearing of the case commenced on the
9th October last and lasted six days.
His Lordship delivered the following written
judgment.

The writ of summons in this suit was issued
on the 10th Sept., 1894. It stated that
the defendants were sued as executors and
administrators of Cheong Kai, deceased, and it was
specially endorsed, under section 13 of the
Code of Civil Procedure, with a claim for
\$100,000, being the amount due under the joint
and several bond of one Cheong Koon Sing and
the said Cheong Kai, deceased, to the plaintiff
Bank, dated the 25th August, 1891, and con-
ditioned for payment of the sum of \$100,000 on
demand being made by the said Cheong Koon
Sing to perform and observe the duties, obli-
gations, matters, and things contained in the said
bond. There was also a claim to have the
estate of Cheong Kai administered, but this
was not followed up in the petition of the
plaintiffs. Nor do the plaintiffs appear to have
taken any further steps by way of having their
claim dealt with under the above-mentioned pro-
visions of law relating to specially endorsed writs.

The petition was filed on the 20th October,
1894. It set forth that the plaintiff bank was
a limited company carrying on the business of a
bank in Victoria and at other places in the
East; that, at the request of Cheong Kai, the
plaintiff Bank, on the 25th August, 1891,
engaged his brother Cheong Koon Sing as com-
prador of the Bank; and that, in consid-
eration thereof, Cheong Kai agreed to become
surety to the plaintiff bank to the extent of
\$100,000 for the due performance by Cheong
Koon Sing of his duties and obligations as such
comprador; that upon the same date Cheong
Koon Sing wrote a letter of agreement to the
plaintiff bank in which he specified the terms
upon which he had been engaged and his duties
and obligations as comprador; and that Cheong
Kai signed at the foot of this letter a declara-
tion whereby he approved of the letter and
declared himself liable as surety for the per-
formance by Cheong Koon Sing and his em-
ployees of his and their obligations under the
letter and under a bond annexed thereto; that
this bond was executed on the same date as by
Cheong Koon Sing and Cheong Kai jointly
and severally bound themselves, their executors
and administrators, to the plaintiff bank, and
that one of the conditions of the bond was
that "if the said Cheong Koon Sing or his
employees in the Bank should be and remain
responsible for and pay on the days when the
same should fall due all Chinese bank notes,
bills, drafts, promissory notes, and orders and
other securities which might thereafter be
received or purchased by the said Cheong Koon
Sing or by any of the said employees or by the
plaintiff bank with the knowledge and consent
of the said Cheong Koon Sing, or with such
knowledge and consent through any of the
said employees, then the said bond should be
void and of no effect, but otherwise should be
and remain in full force and virtue; and that
upon the same date Cheong Kai deposited with
the plaintiff bank as collateral security the
title deeds of certain leasehold property situate
in Victoria, and by indenture charged all his
interest in that property with the payment of
all sums of money, not exceeding \$100,000,
which should become payable by Cheong Koon
Sing to the plaintiff bank under the letter of
agreement or bond, and also with the pay-
ment of all losses, damages, and expenses which
should be incurred or sustained by the plaintiff
bank under the letter of agreement or bond,
such sums of money, losses, damages, and ex-
penses not exceeding in the whole the sum of
\$100,000." The petition then proceeded to
allege that in the months of February and
March, 1892, the plaintiff bank pur-
chased from Cheong Koon Sing, as comprador,
from Chinese banks in Hongkong, eleven
bills or drafts drawn on Shanghai; that these
bills or drafts were dishonoured, involving a
loss to the plaintiff bank of \$289,105.28 for
principal and interest, loss on exchange and re-
exchange, and expenses of noting and pro-
testing and otherwise; that on the 8th March,
1892, the plaintiff bank lent, through Cheong
Koon Sing, to a Chinese bank on its promissory
note the sum of \$100,000, but the note on being
presented was not paid; that Cheong Koon Sing
had sought to or recovered for the plaintiff bank
the sum of \$148,824.37 on account of these losses,
leaving a balance of \$161,444.38 still owing by
him to the plaintiff bank, which he had refused to
pay; and that the defendants, on application
made to them for that purpose, had also refused
to pay this balance. The petition concluded
with the prayer that the defendants might be
declared indebted to the plaintiff bank in the
sum of \$100,000 and be ordered to pay it out of
the estate of Cheong Kai, with interest thereon
at 8 per cent. per annum from the 10th Sep-
tember, 1894, and that the property mortgaged by
Cheong Kai to the plaintiff bank might be
ordered to be sold and the proceeds applied in pay-
ment of the amount due to the Bank.

By their answer, which was filed on the 16th
Nov., 1894, the defendants admitted the writing
of the letter of agreement and the execution of
the bond by Cheong Koon Sing and Cheong Kai.
They also admitted the purchase and dishonour
of the bills and the non-payment of the pro-
missory note given to the plaintiff bank for the
loan of \$100,000, but they denied that Cheong
Koon Sing was responsible for interest or was
liable to pay more than the actual loss sustained
by the plaintiff bank on the bills. They stated
that on the 31st May, 1892, by an agreement
made between the plaintiff bank and Kan Sing
Toi, a customer of the Bank, the account of
Kan Sing Toi with the Bank was debited with a
sum of \$97,222.23, being the amount due in
respect of the dishonoured bills; that Cheong
Koon Sing had no responsibility in respect of
this account, which was commenced before he
became comprador to the plaintiff bank; that
the securities held by the plaintiff bank on this
account were more than sufficient to cover the
sum of \$97,222.23; and that the plaintiff Bank
released Cheong Kai from all liability in re-
spect of the sum of \$97,222.23 by debiting the

account of Kan Sing Toi with that amount, and
this showing the intention to make Kan Sing
Toi responsible for and to obtain payment
of the deficiency on the bills from him in-
stead of Cheong Koon Sing or Cheong Kai. By
an amendment of their answer made pursuant
to an order of the Court, on the 10th August,
1895, the defendants enlarged their defence
on this point by stating that "by an agree-
ment made subsequent to the 25th August, 1891,
with Kan Sing Toi by the plaintiff bank, at the
request of Cheong Koon Sing and without the
consent or knowledge of Cheong Kai, to debit
the account of Kan Sing Toi with the sum of
\$97,222.23, the plaintiff bank took a sub-
stituted security, and thus discharged Cheong Kai
from all liability; that "the agreement made
with Kan Sing Toi by the plaintiff bank, at the
request of Cheong Koon Sing and without the
consent or knowledge of Cheong Kai, was an
arrangement which materially affected the po-
sition of Cheong Kai, and discharged Cheong
Kai from all liability; and that the agree-
ment made with Kan Sing Toi by the plaintiff
bank, at the request of Cheong Koon Sing and
without the consent or knowledge of Cheong
Kai, was an agreement in effect giving time to
Cheong Koon Sing by an implied agreement and
discharged Cheong Kai from all liability." The
answer then proceeded to specify several sums of
money which the defendants submitted should
have been credited by the plaintiff bank to Cheong
Koon Sing—but which I need not at present
specially mention—and it concluded by stating
that, according to the true state of the accounts
between them, the plaintiff bank was indebted
to Cheong Koon Sing, and that the defend-
ants were not indebted to the plaintiff bank
under the bond or indenture of charge dated
the 25th August, 1891.

On the 18th July, 1895, the plaintiffs, having
obtained leave of the Court for that purpose, filed
a replication to the defendants' answer. The re-
plication stated that Kan Sing Toi was a partner
and manager of the Wing Tung Yan Bank and
a partner in the Kwong Fuk bank; that he
was thus personally liable to the plaintiff Bank
and to Cheong Koon Sing for the sum of
\$97,222.23, being the amount of the bills pur-
chased by the plaintiff bank from these banks;
that, at the request of Cheong Koon Sing and
with the consent of Kan Sing Toi, the plaintiff
bank debited the account of Kan Sing Toi with
that amount in order that if at any time, by
the realization of the shares and securities held
by the plaintiff bank in respect of that account,
there was left any margin to the credit of Kan
Sing Toi over and above his debt to the plain-
tiff bank on that account, it might be applied
in reduction of his liability on the bills and of
the liability of Cheong Koon Sing; and that
Cheong Koon Sing agreed that his liability to
the plaintiff bank in respect of the bills should
not be released or in any way diminished by
reason of Kan Sing Toi being so debited. The
replication then dealt with the allegations of
the answer that certain sums should have been
credited to Cheong Koon Sing, and it con-
cluded with the statements that, upon the true
state of the accounts, Cheong Koon Sing was
still indebted to the plaintiff bank in the sum
of \$161,444.38; that any securities which the
plaintiff bank held in respect of that debt
would, upon payment of it, be transferred to
Cheong Koon Sing or as he should appoint;
and that the defendants, as executors of Cheong
Kai, were indebted to the plaintiff bank in the
sum of \$100,000, part of the said sum of
\$161,444.38, and for interest thereon, and it ob-
served that the answer of the defendants was
amended by stating in various ways the effect
of the arrangement made between the plaintiff
bank and Kan Sing Toi after the filing of the
replication, and therefore the replication does
not deal with those amendments.

This is the substance of the pleadings between
the parties. There was no settlement of issues,
but I think it will be apparent from a perusal
of the pleadings that the principal question in
controversy between the parties was as to the
effect of the agreement made between the
plaintiff bank and Kan Sing Toi in respect of the
liability of Cheong Koon Sing and therefore
upon the position of Cheong Kai as his surety.
Accordingly at the hearing the contest, both
as regards evidence and argument, was mainly
centred round this point.

On these pleadings the cause was heard be-
fore Sir Fielding Clarke, the late Chief Justice,
on the second and third days of September,
1895. It then appeared from the evidence of
Mr. Darby, the accountant, and Mr. Inghelb,
the manager of the Bank, that the account in
question in the suit the Bank had been wound
up and its assets, rights, and liabilities (including
all its rights in respect of the matters in con-
troversy in this suit) assigned to a new com-
pany called "The Bank of China and Japan,
Limited." It was accordingly ordered that,
on the application of the plaintiffs, the further
hearing should be adjourned sine die, and that
the plaintiffs should have leave to amend their
petition by stating therein the assignment
of rights to the new Bank. This was accord-
ingly done, and the defendants amended their
answer by adding a paragraph in denial of the
alleged assignment and of the right of the Bank
of China and Japan, Limited, to carry on and
continue the suit in the name of the plaintiff
bank. It may at once, however, be said that
this denial was not followed up, and that the
fact of the assignment was sufficiently proved
by an affidavit of Mr. Campbell, the liquidator
of the plaintiff bank, which the plaintiffs had
obtained leave of the Court to use at the hear-
ing. For the sake of convenience the expression
"the Bank" will henceforward be used to de-
note the plaintiff bank.

The cause came on for hearing before me on
the 9th October last, when it was agreed by
the parties that it would be more convenient
that it should be entirely re-heard, and this was
accordingly done. The hearing lasted six days,
and the case was conducted with much ability
by counsel on both sides.

The evidence consisted on the part of the
plaintiffs of the affidavit of Mr. Campbell
already mentioned and of the de bene esse
examination of Mr. Darby, the accountant of
the Bank, taken before the Judge at the hear-
ing of the defendants. Cheong Koon Sing was
examined and cross-examined at considerable
length. A number of documents were pro-
duced in evidence by Mr. Darby, and Cheong
Koon Sing respectively. The evidence on the
one side and on the other is conflicting in many
aspects and especially with regard to the
nature and incidents of the arrangement made
between the Bank and Kan Sing Toi. I
proposed to state the substance of the evidence
and to set forth the reasons which have weighed
with me in accepting the version of facts which
I have adopted.

The Bank had formerly been a trust and
loan agency under the name of "The Trust
and Loan Company of China, Japan, and the

Straits, Limited." In 1891 the com-
pany was converted into a bank under the
name of the Bank of China, Japan, and the
Straits, Limited. Mr. Darby joined the Bank
as accountant about the time of its establish-
ment, and Mr. Inghelb became manager ap-
proximately in the early part of 1892. Until
August, 1891, the Bank had no compradors,
but on the first day of that month they engaged the
services of Cheong Koon Sing as comprador, and
his elder brother, Cheong Kai, became surety for
him. Cheong Kai had been the comprador of the
Hongkong Club, and was apparently possessed
of considerable property. On the 25th August,
1891, Cheong Koon Sing and Cheong Kai
signed the letter of agreement and executed the
bond mentioned in the petition. The bond
contained a clause reserving the right to Cheong
Koon Sing and Cheong Kai, or either of them,
to determine at any time, by giving to the obli-
gors notice in writing of their intention to do
so. On the same day Cheong Kai executed the
indenture of charge and mortgage men-
tioned in the petition.

No question arose between the Bank and
Cheong Koon Sing for some months after he
had entered on the performance of his duties,
and indeed it may be said that Mr. Darby
speaks of him generally as having dis-
charged his duties to the satisfaction of the
Bank. In the month of February and March,
1892, the Bank purchased from two
Chinese banks in this colony, through and on
the recommendation of Cheong Koon Sing,
eleven bills or drafts on Chinese banks and
firms at Shanghai. One of these bills was
subsequently paid in Hongkong and it is there-
fore unnecessary to take further account of
it. The remaining ten bills were drawn by
the banks on the dates and for the amounts
mentioned below. They were in the English
language. The first of these bills was drawn in
favour of the Bank, but the remaining nine
were drawn in favour of Cheong Koon Sing
and endorsed by him to the Bank. This was done
by direction of Mr. Inghelb, in order to prevent
any question arising as to whether the bills had
or had not passed through the hands of Cheong
Koon Sing.

	Date	Amount	Total
Tsun Shing	28th Feb., 1892	20,000	20,000
Wing Tung Yan	15th Feb., 1892	20,000	40,000
Kwai Yu	27th Feb., 1892	10,000	20,000
Do	7th March, 1892	10,000	20,000
Kung Tai	1st March, 1892	20,000	40,000
Do	13th March, 1892	20,000	20,000
Kwong Fuk	12th March, 1892	10,000	30,000
Do	14th March, 1892	10,000	30,000
			Total 170,000

Beside these bills the Bank also, through and
on the recommendation of Cheong Koon Sing,
on the 8th March, 1892, advanced a sum of
\$10,000 to the Kwai Yu Bank, taking its
promissory note for that amount. The total
amount disbursed by the Bank for these
bills and note was \$244,067.28.

At the time of these transactions there was
in the colony a man named Lo Hok Pang, who
was the comprador of the Hongkong and
Shanghai Banking Corporation. He was a
prominent and influential member of the Chi-
nese community, and was reputed to be
possessed of great wealth. He was a partner
in all the five banks mentioned above, except
the Tsun Shing. There was also at the same
time another Chinaman named Kan Sing Toi,
who was regarded by the Chinese as a man
of considerable financial status. He was a part-
ner in two of the above-mentioned banks,
namely, the Wing Tung Yan and the Kwong
Fuk, and was also the manager of the former
bank. His name appeared on the two bills of
the Wing Tung Yan Bank as one of the
parties to them. He had a private advance
account with the Bank, and was in the habit
of depositing considerable sums of money in
other securities to cover the advances
made to him on that account. This account
was in existence before Cheong Koon Sing
became comprador to the Bank, and it is ad-
mitted that he had no connexion with or
responsibility for it. It was the custom of the
Bank to make a valuation of the securities held
by them on this account at the close of each
month, and to send a copy of it to the head
office in London. On the 26th February, 1892,
Kan Sing Toi's indebtedness to the Bank on
this account was \$367,844.32 and the securities
were valued at \$637,844.00. There was, there-
fore, on that date a surplus or margin in his
favour of \$269,999.68.

Apparently without any warning, in March,
1892, a crisis of a grave character arose among
the Chinese banks and firms in Hongkong and
Shanghai. The crisis seems to have been im-
mediately brought about by the disappearance
from the colony of Lo Hok Pang. This event
took place on the 28th March, 1892. Cheong
Koon Sing heard of it on the morning of the
following day, the 27th March, 1892, and he
seems to have been completely unprepared for
it. He said that the banks which had drawn the
bills and made the promissory note would
suspend payment and that he and his surety
might thereby become involved to a very large
extent. He accordingly spent the morning in
making visits to the banks concerned—which,
although the day was Sunday, were, in accord-
ance with Chinese custom, open for business—
with a view of ascertaining from their manag-
ing partners what were their chances of tidying over
the crisis and, especially, how they proposed to
meet their liabilities to himself and the Bank.
According to his account he received from the
Tsun Shing, Kwai Yu, and Kung Tai Banks as-
urances that their position was not
endangered or at any rate not made de-
perate, and, what was more to the point,
contributions of Chinese promissory notes
and other securities to enable him to
meet in part their engagements, on which he was
also liable. He obtained from the Tsun Shing
Bank a promissory note for \$10,000 made
in their favour by Kwong Fuk, Kwai Yu, and
Kung Tai Banks, an assignment of a property
in Saigon; and from the Kung Tai Bank 500
shares in the plaintiff bank. He was not suc-
cessful in his application to the Wing Tung
Yan and Kwong Fuk Banks—in the case of the
former because he was not able to find the
managing partner, Kan Sing Toi, at the office
of the bank. He was asked in cross-examina-
tion why, when he did not find Kan Sing Toi
at that bank, he had put his name on the two bills
of that bank; and that it was therefore nec-
essary for him to put the names of that bank
in the document. He adds that he asked Kan
Sing Toi to "pay" (meaning, apparently, to
"hand over") some Chinese promissory notes
which he had with him; that Kan Sing Toi
pulled out twenty or thirty such notes, for some
amounting to about \$100,000, and handed them
to Mr. Darby; and that the latter declined to
take them. (The witness here explained the
customs of the Chinese bankers in paying

settlement with Kan Sing Toi in order to pre-
vent himself.

About 2 p.m. on that Sunday he went to the
office of Mr. Darby and told him of what
had occurred, and the two of them went to the
office of the Bank, arriving there between 2.30
and 3 p.m. No doubt he went to Mr. Darby
instead of Mr. Inghelb because the latter
gentleman had only recently assumed the
management of the Bank, while the former
had been employed as its accountant for some
time. Mr. Darby states that he had "a long
interview" on the day in question with Cheong
Koon Sing. But it does not appear that any-
thing material was said or done until Kan Sing
Toi arrived at the Bank. He was fetched
thither by Cheong Koon Sing at the instance,
as Cheong Koon Sing says, of Mr. Darby. It
is unfortunate that the only witnesses who have
given evidence as to the conversation which
then took place are Mr. Darby and Cheong
Koon Sing. They are both interested wit-
nesses, but no doubt Cheong Koon Sing had a
much more direct and real interest in inducing
the Court to accept his version of the transac-
tion than Mr. Darby can have on his side. If
any case their statements as to what took place
with regard to this matter of vital importance
are in conflict with one another, and I have to
determine for myself which of them I will
believe. In forming an opinion on this point
it is necessary to have regard to the relative
truthfulness of the two men as I conceive of it,
to the inherent probabilities of the matter, and to
the subsequent conduct of the parties concerned.

Let us consider first Mr. Darby's version
of the conversation and what was done in
the course of it. In his examination-in-chief
he does not give any details of the conversation,
but merely speaks of the documents which were
written at the interview and to which I will
presently refer. In cross-examination he makes
the following statement:—"During the inter-
view with Kan Sing Toi and the comprador
and myself, I do not remember the comprador
taking me aside. I cannot agree positively
either way. It is five years ago nearly. I do
not remember the comprador having asked me
to get Kan Sing Toi to pledge his margin on
his share account against any possible loss on
the Wing Tung Yan and the Kwong Fuk bills.
I don't remember whether the comprador in-
quired of me during that interview whether
Kan Sing Toi had a good margin on his
loan account. I know something was said
about the margin on Kan Sing Toi's account
during that interview. I think I brought up
the matter, I cannot swear." Evidence of the
kind is not very satisfactory from the point of
view of clearness and definiteness, but at any
rate it shows that Mr. Darby would not force
his memory to testify in favour of the Bank's
position in this case. In re-examination he
affirms that he never gave Cheong Koon Sing
to understand, either directly or indirectly, that
the debiting of Kan Sing Toi's account with
the value of the four bills of the Kwong Fuk
and Wing Tung Yan Banks would diminish
his liability in any way. There is no further
evidence obtained by either party from Mr.
Darby with regard to the terms of the con-
versation otherwise than as relating to the
documents already mentioned. With regard to
these documents Mr. Darby says that "he pre-
pared two documents for Kan Sing Toi's
signature." The first document was in the
following terms—

"The Manager, the Bank of China, Japan, and the
Straits, Limited, Hongkong, 26th March, 1892.
Dear Sir,—With regard to all acceptances in the
possession of your Bank on this date, drawn by the Kwong
Fuk Bank or Wing Tung Yan Bank of Hongkong on
Yuen Loong Shanghai, I hereby guarantee that same
shall be paid at maturity and I hereby authorize you to
retain any margin there is, or may be, on my account
with your Bank, to liquidate any debt which may be
owing to you through the default of above banks or firms
to protect such acceptances.
It may be noted that this letter is wrongly
dated the 26th instead of the 27th March.
This letter Kan Sing Toi declined to sign,
and Mr. Darby says that the reason which he
gave for this refusal was that "it included the
Wing Tung Yan Bank, which at that moment
had not closed its doors." Mr. Darby there-
upon wrote another letter of the same purport,
with the exception that the name of the Wing
Tung Yan Bank does not appear in it. This
letter also Kan Sing Toi declined to sign, for
the reason, as stated by Mr. Darby, that it was
in English and he could not understand English.
Kan Sing Toi then wrote and gave to Mr.
Darby a Chinese document, of which the follow-
ing is a translation—

"If Kwong Fuk Bank are indebted to Wei
Tung & Co. (Bank of China, Japan and the
Straits) for any money on account of drafts, I am
willing to allow the margin money of all my
shares I have pledged in the Wei Tung Bank
to be deducted (set off) there shall be no
discussion to the contrary and nothing further.
Kwong Fuk, 15th year, 2nd moon, 26th day
(27th March, 1892).
(Sd.) KWAN SING TOI.
Cheong Koon Sing's account of the conver-
sation at the interview is fuller and more precise.
It is in substance to the effect that Kan Sing
Toi was angry at his pressing him as to how he
proposed to meet the bills, amounting to \$170,
000, of the two Banks, that he (Kan Sing Toi)
then said to Mr. Darby that he had got
"too much share inside the Bank" and had
got a margin too, and that he (Mr. Darby)
could "put his account"; and that Mr. Darby
nodded his head. He says he then took Mr.
Darby aside and asked him whether Kan Sing
Toi had shares in the Bank and had a margin
also, and Mr. Darby said "Yes, he had plenty."
He proceeds to say that Mr. Darby then wrote
a paper in English and offered it to Kan Sing
Toi to sign; but he refused to sign it on the
ground that he did not understand English;
that Mr. Darby wrote a second
paper in English and offered it to Kan
Sing Toi's signature, but he refused to sign that
also, alleging the same reason for his refusal,
and that Kan Sing Toi then wrote and delivered
to Mr. Darby the Chinese document, of which
a translation has been set out above. He states
that, on Mr. Darby's asking him to translate
the document, he explained to Mr. Darby that
only the name of the Kwong Fuk appeared in it
and the name of the Wing Tung Yan was absent;
whereupon Kan Sing Toi explained that he was
the manager and sole owner of that Wing Tung
Yan; that he had put his name on the two bills
of that bank; and that it was therefore nec-
essary for him to put the names of that bank
in the document. He adds that he asked Kan
Sing Toi to "pay" (meaning, apparently, to
"hand over") some Chinese promissory notes
which he had with him; that Kan Sing Toi
pulled out twenty or thirty such notes, for some
amounting to about \$100,000, and handed them
to Mr. Darby; and that the latter declined to
take them. (The witness here explained the
customs of the Chinese bankers in paying

English to Mr. Darby, and Mr. Darby then
called him aside and said to him, "Kan Sing
Toi, pig-dog, finish, alright, don't you worry.
You go other bank; you do your best." Then
he says he went away, leaving Mr. Darby and
Kan Sing Toi together. His evidence proceeds
as follows:—"After the interview I took no
steps to get securities from the Kwong Fuk or
the Wing Tung Yan Banks; I thought the
matter was settled. Mr. Darby, Kan Sing Toi,
and I had agreed that Kan Sing Toi's share
account should have entered in the liabilities
of the Kwong Fuk and the Wing Tung Yan
on the four bills. I took no further steps
after this with regard to the four bills of these
two banks. After this interview I took further
steps about the other three banks and recovered
money and securities from them."

This evidence was given in his examination-
in-chief. In his cross-examination he said that
Kan Sing Toi "agreed that his shares in the
hands of the plaintiff bank should be used to
meet his liabilities in respect of the Wing Tung
Yan, but he said there was no need to put it in
writing, and he mentioned both the Kwong
Fuk and Wing Tung Yan, the liability in
respect of both being \$170,000." With re-
gard to the two letters written by Mr. Darby
for Kan Sing Toi to sign, he says that the
only reason which Kan Sing Toi gave for not
signing the first letter was that it was in Eng-
lish and he could not understand it, and he is
unable to explain why Mr. Darby should under
those circumstances, have written and tendered
a second letter in English.

These are the two versions before the Court
of this important conversation. They are
clearly not consistent with one another. Ac-
cording to Mr. Darby, the effect of that
conversation was that Kan Sing Toi agreed to
give the Bank for the sake of convenience and
by way of additional security, a ready recourse
to any margin or balance on his private account
to cover any losses incurred to the Bank by
the dishonouring of the Kwong Fuk bills. He
was asked nothing in cross-examination as to
his having, at the time and on account of
accepting this additional security, released
Cheong Koon Sing from liability in respect of
the bills of the two banks in question or
either of them.

On the other hand Cheong Koon Sing's
version is to the effect that Mr. Darby
expressly released him from further liability in
respect of these bills, and agreed to accept the
right of appropriation given by Kan Sing Toi
in lieu of that liability.

Of these two discordant versions I believe
that given by Mr. Darby as against that given
by Cheong Koon Sing, and I propose to state
briefly the reasons which have weighed with me
in arriving at this conclusion. In the first
place, I have formed the opinion that Mr.
Darby is a more truthful and candid witness
than Cheong Koon Sing. It is true that I
did not have an opportunity of seeing Mr.
Darby under examination, but the Registrar,
before whom he was examined by me, in-
forms me that, although his memory seemed to
be pretty often at fault, yet he gave his evidence
in an apparently truthful manner. His evidence
reads as that of a man not in any way desiring
to strain the truth. But I cannot say that I
was favourably impressed with Cheong Koon
Sing as a witness. He appeared to me to be an
exceedingly astute and intelligent man who
carefully weighed his answers to the questions
put to him and was anxious that they should
accord with the case put forward for the de-
fence. His evidence was given through an
interpreter, and I am inclined to think that he
knew English sufficiently well to be able, gener-
ally speaking, to know what the question was
before it was interpreted to him. I have already
adverted to the subject of the relative interest
of the two witnesses in the result of the suit.
Then, to come to the subject-matter of the
agreement as alleged by Cheong Koon Sing, it
may be asked why should Mr. Darby have made
such an agreement? It is not disputed that
Kan Sing Toi was expressly liable on the
Wing Tung Yan bills as a party to them, and
ultimately liable on the Kwong Fuk bills as a
partner in that bank. Why then should Mr.
Darby, merely for the sake of the Bank being
granted an easy way of bringing home this
liability, surrender its right to call on Cheong
Koon Sing to make good the losses in respect
of those two banks? In answering this ques-
tion we must remember that the margin made
available under the alleged agreement was, at
the last valuation of the securities, nearly
\$80,000 short of the required amount, and also
that Mr. Darby must have known that the
value of the shares held for the account would
probably fall in consequence of the financial
crisis. Again, it is easy to understand that
Mr. Darby should conclude such an arrange-
ment as that described by himself without
reference to Mr. Inghelb, but it is far
from being easy to understand how he could
make such an arrangement as that alleged by
Cheong Koon Sing without such a reference.

It may also be pointed out that, as regards the
documents written at the interview, the internal
evidence supplied by the documents themselves
is more consistent with the version told by
Mr. Darby than with that told by Cheong Koon
Sing. Why, for instance, should Kan Sing
Toi have given, at one and the same time, an
express permission in writing in the case of the
Kwong Fuk bills and only a verbal permission
in the case of the Wing Tung Yan bills? I
have already referred to the absence of cross-
examination of Mr. Darby with respect to the
alleged agreement. It is true that Mr. Darby
was asked whether Cheong Koon Sing took him
aside at the interview, but I do not understand
why this question was not followed by the
more material question whether he spoke to
Cheong Koon Sing the words which are set up
as an express release of the latter's liability. It
was further observed by Mr. Francis that the
defendants' answer did not set forth any express
release or indeed any specific agreement at all
between Mr. Darby and Cheong Koon Sing,
and is difficult to conceive how or why Cheong
Koon Sing should not have furnished them
with information on this point—at any rate in
time for the framing of the amended para-
graphs of the answer, which were not filed until
the 10th August, 1895. It may deserve men-
tion in this connection that in one of these
amended paragraphs as it originally stood the
defendants alleged that "the plaintiff bank
took an additional security from Cheong Koon
Sing and thus discharged Cheong Kai from all
liability;" and that at the hearing, at Mr.
Drummond's request, the words "a substituted
security" were inserted in lieu of the words
"an additional security" from Cheong Koon
Sing." As a last reason which has influenced
my mind in deciding this question of the rela-
tive truthfulness of these witnesses, I may say
that the evidence of Mr. Darby as to what was
said and done at the interview of the 27th
March, 1892, is borne out by the subsequent